

IN THE

Court of Appeal of the State of California

IN AND FOR THE

Fifth Appellate District

F050003 In re D.D., a Minor; Stanislaus County Community Services Agency v. J.D.

All orders and findings issued subsequent to the detention hearing are vacated and the matter is remanded to the juvenile court. On remand, if J.D. is determined to be a minor, the juvenile court shall appoint a guardian ad litem for him. If J.D. is an adult, the juvenile court shall determine whether J.D.'s developmental disability warrants appointment of a guardian ad litem pursuant to Code of Civil Procedure section 372, subdivision (a). In either case, J.D. shall be entitled to appointed counsel and counsel shall be appointed unless J.D. affirmatively waives counsel. Cornell, J.

We concur: Wiseman, Acting P.J.; Kane, J.

[CERTIFIED FOR PUBLICATION]

F048502 People v. Hernandez

Counsel having failed to request oral argument in the above-entitled case, oral argument is deemed waived in accordance with the provisions of a notice heretofore mailed to counsel and the cause is submitted.

F0485002 People v. Hernandez

The judgment is affirmed.

By the Court.

[NOT TO BE PUBLISHED IN OFFICIAL REPORTS]

F048380 Diaz et al. v. Gonzalez

The above-entitled case is submitted for decision.

F048809 People v. Reed, Jr.

The above-entitled case is submitted for decision.

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F050124 In re Kyle B. et al., Minors; Kern County Department of Human Services v. James B. et al.

The motion to dismiss is denied. The portion of the March 7, 2006, order regarding the parents' visitation with Kyle and C. is reversed. The court is directed to conduct a hearing to fashion a lawful visitation order consistent with this opinion. In all other respects, the judgment is affirmed. Vartabedian, Acting P.J.

We concur: Levy, J.; Gomes, J.

[NOT TO BE PUBLISHED IN OFFICIAL REPORTS]

F049901 In re Alexis L., a Minor; Fresno County Department of Children and Family Services v. Maria S.

The orders denying appellant's section 388 petition as well as her *Marsden* motion are affirmed. There being no independent challenge to the order terminating parental rights, that order is affirmed. Vartabedian, Acting P.J.

I concur: Harris, J.

I dissent: Gomes, J.

(See dissenting opinion)

[NOT TO BE PUBLISHED IN OFFICIAL REPORTS]

F048433 People v. Phillips

The judgment is affirmed, except that the true finding on the allegation that appellant suffered a strike resulting from a 1993 conviction for violating section 245, subdivision (a)(1) is reversed and appellant's sentence is vacated. Because appellant admitted suffering this conviction, the matter is remanded for a hearing solely to determine whether it constitutes a strike within the meaning of the Three Strikes Law. If the trial court determines that appellant's 1993 conviction for violating section 245, subdivision (a)(1) is a serious or violent felony and constitutes a strike within the meaning of the Three Strikes Law, the sentence previously imposed shall be reinstated. If the trial court determines that this conviction is not a serious or violent felony and does not constitute a strike within the meaning of the Three Strikes Law, appellant shall be re-sentenced and a new abstract of judgment shall be prepared and transmitted to the Department of Corrections. Levy, Acting P.J.

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We concur: Gomes, J.; Kane, J.

[NOT TO BE PUBLISHED IN OFFICIAL REPORTS]

F048162 People v. Gaeta

The above-entitled case is submitted for decision.

F048272 People v. Ward, Jr.

Appellant having died pending appeal, remittitur is recalled,
opinion is vacated and appeal is permanently abated.

F048948 In re Alejandora L., a Minor

The judgment is affirmed with modifications. Dawson, J.

We concur: Vartabedian, Acting P.J.; Cornell, J.

[NOT TO BE PUBLISHED IN OFFICIAL REPORTS]

F048249 In re Ernest G. III, a Minor

The judgment is affirmed. Dawson, J.

We concur: Vartabedian, Acting P.J.; Cornell, J.

[NOT TO BE PUBLISHED IN OFFICIAL REPORTS]

F048315 People v. Nesler III

The judgment is affirmed. Levy, Acting P.J.

We concur: Gomes, J.; Kane, J.

[NOT TO BE PUBLISHED IN OFFICIAL REPORTS]

F047205 People v. Walsh

The judgment is affirmed. Levy, Acting P.J.

We concur: Gomes, J.; Kane, J.

[NOT TO BE PUBLISHED IN OFFICIAL REPORTS]